

REMARKS

The Official Action mailed November 18, 2004, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicants respectfully submit that this response is being timely filed.

The Applicants note with appreciation the consideration of the Information Disclosure Statements filed on April 5, 2002, and October 30, 2002. However, the Applicants have not received acknowledgment of the Information Disclosure Statement filed on November 11, 2004. The Applicants respectfully request that the Examiner provide an initialed copy of the Form PTO-1449 evidencing consideration of the Information Disclosure Statement filed November 11, 2004.

Claims 1-80 are pending in the present application, of which claims 1, 10, 46-49, 66, 67 and 78 are independent. Independent claim 78 has been amended to better recite the features of the present invention. Claims 42, 43, 45-47, 66, 67, 78 and 79 have been amended to correct minor matters of form. Also, the specification and abstract have been amended to clarify "inert gas element" as a "noble (rare) gas element." Similarly, claims 1-8, 10, 11, 40, 41, 44-49, 54-61, 66, 67, 72-75 and 78-80 have been amended to clarify "inert gas element" as "noble gas element." One with ordinary skill in the art would understand these terms to be interchangeable. The specification discloses "He, Ne, Ar, Kr, and Xe," and these elements are known to be noble (rare) gas elements. Therefore, no new matter has been introduced.

The Applicants note with appreciation the allowance of claims 47, 51, 53, 55, 59 and 63 and the indication of the allowability of claim 80 (page 4, Paper No. 1104). Claims 1-46, 50, 52, 54, 56-58, 60-62 and 64-77 have been withdrawn from consideration by the Examiner (Office Action Summary, Id.). Claims 48 and 49 were previously withdrawn by the Examiner but were not included in the list of withdrawn claims on the Office Action Summary. It is unclear whether the Examiner has changed the species restriction with respect to claim 48 and 49. Accordingly, at least claims 47,

51, 53, 55, 59, 63 and 78-80 are currently elected, of which claims 47 and 78 are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

The Official Action rejects claims 78 and 79 as anticipated by U.S. Patent No. 6,048,758 to Yamazaki et al. The Applicants respectfully submit that an anticipation rejection cannot be maintained against independent claim 78 of the present application, as amended.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

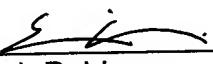
The Applicants respectfully submit that an anticipation rejection cannot be maintained against independent claim 78 of the present application, as amended. Claim 78 has been amended to recite allowable subject matter (see "Allowable Subject Matter," page 4, Paper No. 1104). Specifically, claim 78 has been amended to recite adding a noble gas element to an upper layer of the semiconductor film. Yamazaki '758 does not teach all the elements of amended independent claim 78, either explicitly or inherently.

Since Yamazaki '758 does not teach all the elements of independent claim 78, either explicitly or inherently, an anticipation rejection cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

For the record, page 3 of the Official Action includes a "Response to Arguments" section which states that "arguments with respect to claims 47, 51, 53, 55, 59, and 63 have been considered but are moot in view of the new ground(s) of rejection." However, based on the allowance of claims 47, 51, 53, 55, 59 and 63 at page 4, it is respectfully submitted that the "Response to Arguments" paragraph was inadvertently copied from the previous Official Action and should not have been included.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,


Eric J. Robinson
Reg. No. 38,285

Robinson Intellectual Property Law Office, P.C.
PMB 955
21010 Southbank Street
Potomac Falls, Virginia 20165
(571) 434-6789